

# CHANGE ORDER

Number 1

Date: 2/2/2021  
To: FCI Constructors, Inc.  
From: City of Grand Junction, Department of Public Works and Utilities  
Project: Hwy 50 Sewer Replacement Project  
P.O.: 2021-00000556

It is agreed to modify the Contract for the Project as follows:

Due to a discrepancy in the existing sanitary sewer elevation at the proposed tie-in point, the design had to be modified to extend further downstream to provide adequate slope on the sanitary sewer pipe. This results in the need for an additional 217 feet of sewer main to be replaced along Hwy 50, which was planned for replacement in the next few years. Contracted unit prices will be utilized for basis of payment for this change of scope.

Summary of Contract price adjustments - itemized on the attached sheet(s):

Original Contract Amount	\$	165,986.71	
Approved Change Orders	\$	-	
This Change Order	\$	49,639.67	902-615-090.8425
Revised Contract Amount	\$	215,626.38	

Summary of Contract time adjustments:

Original Contract Time	60.	Cal. Days
Approved Change Orders	0.	
This Change Order	7.	
Revised Contract Time	67.	Cal. Days

Construction Start Date: February 1, 2022  
Contract Completion Date: April 9, 2022

This modification constitutes compensation in full for all costs and mark-ups directly and/or indirectly attributable to the changes ordered herein, for all delays, impacts and disruptions related thereto and for performance of the changes within the Contract Time.

Owner: **City of Grand Junction**

Prepared by: Ken Haley  
Ken Haley, Engineering Manager

Date: 2/7/2022

Recommended by: Randi Kim  
Randi Kim, Utilities Director

Date: 2/14/22

Approved by: Greg Caton  
Greg Caton, City Manager

Date: 2/14/22

Contractor: **FCI Constructors, Inc.**

Signature: Shane A. Kras

Date: 2/7/2022

Name and Title: Shane A. Kras - President



### NOTICE TO PROCEED

Date: January 31, 2022  
Contractor: FCI Constructors, Inc.  
Project: 2021 Highway 50 Sewer Work Project in Tracy's Village Subdivision  
SS-4973-21-DH

In accordance with the contract dated November 2, 2021 the Contractor is hereby notified to begin work on the Project on or before February 1, 2022.

The date of final completion as determined is 60 Calendar Days.

### CITY OF GRAND JUNCTION, COLORADO

DocuSigned by:  
Duane Hoff Jr., Senior Buyer - City of Grand Junction  
9F789E7D50F14BC  
Duane Hoff Jr., Senior Buyer

Receipt of this Notice to Proceed is hereby acknowledged:

Contractor: FCI Constructors, Inc

By: DocuSigned by:  
Shane Haas - President - FCI Constructors, Inc.  
332F3631DD164EB...

Print Name: Shane Haas - President - FCI Constructors, Inc.

Title: President

Date: 1/31/2022



CITY OF GRAND JUNCTION, COLORADO

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**CONTRACT**

This CONTRACT made and entered into this 2<sup>nd</sup> day of November, 2021 by and between the **Grand Junction, Colorado**, a government entity in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "Owner" and **FCI Constructors, Inc.** hereinafter in the Contract Documents referred to as the "Contractor."

WITNESSETH:

WHEREAS, the Contractor shall furnish all labor, tools, supplies, equipment, materials, and everything necessary and required for the Project described by the Contract Documents and known as **2021 Highway 50 Sewer Work Project in Tracy's Village Subdivision SS-4973-21-DH.**

WHEREAS, the Contract has been awarded to the above named Contractor by the Owner, and said Contractor is now ready, willing and able to perform the Work specified in the Notice of Award, in accordance with the Contract Documents;

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, the mutual covenants hereinafter set forth and subject to the terms hereinafter stated, it is mutually covenanted and agreed as follows:

**ARTICLE 1**

**Contract Documents:** It is agreed by the parties hereto that the following list of instruments, drawings, and documents which are attached hereto, bound herewith, or incorporated herein by reference constitute and shall be referred to either as the "Contract Documents" or the "Contract", and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto, and they are fully a part of this agreement as if they were set out verbatim and in full herein:

The order of contract document governance shall be as follows:

- a. The body of this contract agreement;
- b. Owner's terms and conditions, scope, specifications, and drawings;
- c. Contractors Proposal;
- d. Work Change Requests (directing that changed work be performed);
- e. Field Orders;
- f. Change Orders.

**ARTICLE 2**

**Definitions:** The clauses provided in the Solicitation apply to the terms used in the Contract and all the Contract Documents.

### ARTICLE 3

Contract Work: The Contractor agrees to furnish all labor, tools, supplies, equipment, materials, and all that is necessary and required to complete the tasks associated with the Work described, set forth, shown, and included in the Contract Documents.

### ARTICLE 4

Contract Time and Liquidated Damages: Time is of the essence with respect to this Contract. The Contractor hereby agrees to commence Work under the Contract on or before the date specified in the Contract Documents from the Owner, and to achieve Final Completion of the Work within the time or times specified in the Contract Documents. In the event the Work is not completed in the times set forth and as agreed upon, the Contractor further agrees to pay Liquidated Damages to the Owner as set forth in the Contract Documents. The Contractor acknowledges and recognizes the delays, expenses and difficulties involved in proving in a legal proceeding the actual losses suffered by the Owner if the work is not completed on time. Accordingly, instead of requiring any such proof, the Owner and the Contractor agree that as Liquidated Damages for delay, but not as a penalty, the Contractor shall pay to the Owner the amounts specified in the Contract Documents.

### ARTICLE 5

Contract Price and Payment Procedures: The Contractor shall accept as full and complete compensation for the performance and completion of all of the Work specified in the Contract Documents, the sum of **One Hundred Sixty-Five Thousand Nine Hundred Eighty-Six and 71/100 Dollars (\$165,986.71)**. If this Contract contains unit price pay items, the Contract Price shall be adjusted in accordance with the actual quantities of items completed and accepted by the Owner at the unit prices quoted in the Solicitation Response. The amount of the Contract Price is and has heretofore been appropriated by the Grand Junction City Council for the use and benefit of this Project. The Contract Price shall not be modified except by Change Order or other written directive of the Owner. The Owner shall not issue a Change Order or other written directive which requires additional work to be performed, which work causes the aggregate amount payable under this Contract to exceed the amount appropriated for this Project, unless and until the Owner provides Contractor written assurance that lawful appropriations to cover the costs of the additional work have been made.

Unless otherwise provided in the Contract Documents, monthly partial payments shall be made as the Work progresses. Applications for partial and Final Payment shall be prepared by the Contractor and approved by the Owner in accordance with the Solicitation.

Upon Final Completion of the Work under the Contract and before the Contractor shall receive final payment, the Owner shall publish at least twice in a newspaper of general circulation published in the County a notice that: 1. the Owner has accepted such Work as completed according to the Contract Documents; 2. the Contractor is entitled to final payment therefore; 3. thirty days after the first publication, specifying the exact date, the Owner shall pay the full balance due under the Contract; and 4. persons having claims for labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by the Contractor or a subcontractor shall file a verified statement of the amount due and unpaid on account of such claim prior to the date specified for such payment. Nothing herein shall be construed as relieving the Contractor and the Sureties on the

Contractor's Bonds from any claim or claims for work or labor done or materials or supplies furnished in the execution of the Contract.

ARTICLE 6

Bonds: The Contractor shall furnish currently herewith the Bonds required by the Contract Documents, such Bonds being attached hereto. The Performance Bond shall be in an amount not less than one hundred percent (100%) of the Contract Price set forth in Article 5. The Payment Bond shall be in an amount not less than one hundred (100%) of the Contract Price set forth in Article 5.

ARTICLE 7

Contract Binding: The Owner and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contract Documents constitute the entire agreement between the Owner and Contractor and may only be altered, amended or repealed by a duly executed written instrument. Neither the Owner nor the Contractor shall, without the prior written consent of the other, assign or sublet in whole or in part its interest under any of the Contract Documents and specifically, the Contractor shall not assign any moneys due or to become due without the prior written consent of the Owner.

ARTICLE 8

Severability: If any part, portion or provision of the Contract shall be found or declared null, void or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having the authority thereover, only such part, portion or provision shall be effected thereby and all other parts, portions and provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, City of Grand Junction, Colorado, has caused this Contract to be subscribed and sealed and attested in its behalf; and the Contractor has signed this Contract the day and the year first mentioned herein.

The Contract is executed in two counterparts.

**CITY OF GRAND JUNCTION, COLORADO**

DocuSigned by:  
By: Duane Hoff Jr., Senior Buyer - City of Grand Junction 12/6/2021  
9F780E7D60F448C...  
Duane Hoff Jr., Senior Buyer Date

**FCI Constructors, Inc.**

DocuSigned by:  
By: Shane Haas - President - FCI Constructors, Inc. 12/6/2021  
052F3051DD104EB...  
Shane Haas - President - FCI Constructors, Inc. President Date



**Purchasing Division**

## **Invitation for Bid**

SS-4973-21-DH

2021 Highway 50 Sewer Work Project in Tracy's Village Subdivision

### **Responses Due:**

November 15, 2021 prior to 3:00 PM

Bid Submittal via E-Mail to [duaneh@gjcity.org](mailto:duaneh@gjcity.org)

### **Purchasing Representative:**

Duane Hoff, Senior Buyer

[duaneh@gjcity.org](mailto:duaneh@gjcity.org)

970-244-1545

This document has been developed specifically to solicit competitive responses for this solicitation, and may not be the same as previous City of Grand Junction solicitations. All vendors are required to thoroughly review this solicitation prior to responding. Submittal by **EMAIL ONLY** for this solicitation.

# **Invitation for Bids**

## **Table of Contents**

Section 1	Instruction to Bidders
Section 2	General Contract Conditions
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	Price Proposal/Bid Schedule Form
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# **1. Instructions to Bidders**

**NOTE:** It is the Contractor's responsibility to read and review all solicitation documentation in its entirety, and to ensure that they have a clear and complete understanding of not only the scope, specifications, project requirements, etc., but also all other requirements, instructions, rules, regulations, laws, conditions, statements, procurement policies, etc. that are associated with the solicitation process and project/services being solicited.

- 1.1. Purpose:** The City of Grand Junction is soliciting competitive bids from qualified and interested companies for all labor, equipment, and materials required to replace 290 linear feet of existing sewer pipe and 1 manhole, and install 1,126 of new sanitary sewer pipe and 3 new manholes. All dimensions and scope of work should be verified by Contractor prior to submission of bids.

**Questions:**

Duane Hoff, Senior Buyer  
[duaneh@gjcity.org](mailto:duaneh@gjcity.org)

The City would like to remind all Contractors, Sub-Contractors, Vendors, Suppliers, Manufacturers, Service Providers, etc. that (with the exception of Pre-Bid or Site Visit Meetings) all questions, inquiries, comments, or communication pertaining to any formal solicitation (whether process, specifications, scope, etc.) must be directed (in writing) to the Purchasing Agent assigned to the project, or Purchasing Division. Direct communication with the City assigned Project Managers/Engineers is not appropriate for public procurement, and may result in disqualification.

- 1.2. The Owner:** The Owner is the City of Grand Junction, Colorado and is referred to throughout this Solicitation. The term Owner means the Owner or his authorized representative.
- 1.3. Procurement Process:** Procurement processes shall be governed by the most current version of the City of Grand Junction [Purchasing Policy and Procedure Manual](#).
- 1.4. Submission:** Via e-mail to [duaneh@gjcity.org](mailto:duaneh@gjcity.org)
- 1.5. Modification and Withdrawal of Bids Before Opening.** Bids may be modified or withdrawn by an appropriate document stating such, duly executed and submitted to the place where Bids are to be submitted at any time prior to Bid Opening.
- 1.6. Printed Form for Price Bid:** All Price Bids must be made upon the Price Bid Schedule attached, and should give the amounts both in words and in figures, and must be signed and acknowledged by the bidder.

The Offeror shall specify a unit price in figures for each pay item for which a quantity is given and shall provide the products (in numbers) of the respective unit prices and quantities in the Extended Amount column. The total Bid price shall be equal to the sum of all extended amount prices. When an item in the Price Bid Schedule provides a choice to be made by the Offeror, Offeror's choice shall be indicated in accordance



with the specifications for that particular item and thereafter no further choice shall be permitted.

Where the unit of a pay item is lump sum, the lump sum amount shall be shown in the "extended amount" column and included in the summation of the total Bid.

All blank spaces in the Price Bid Schedule must be properly filled out.

Bids by corporations must be executed in the corporate name by the president or vice president or other corporate office accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner whose title must appear under the signature and the official address of the partnership must be shown below the signature.

All names must be typed or printed below the signature.

The Offeror's Bid shall contain an acknowledgement of receipt of all Addenda, the numbers of which shall be filled in on the Contractor's Bid Form.

The contact information to which communications regarding the Bid are to be directed must be shown.

- 1.7. **Exclusions:** No oral, telephonic, emailed, or facsimile bid will be considered
- 1.8. **Contract Documents:** The complete IFB and bidder's response compose the Contract Documents. Copies of bid documents can be obtained from the City Purchasing website, <http://www.gjcity.org/501/Purchasing-Bids>
- 1.9. **Additional Documents:** The July 2010 edition of the "City Standard Contract Documents for Capital Improvements Construction", Plans, Specifications and other Bid Documents are available for review or download on the Public Works & Planning/Engineering page at [www.gjcity.org](http://www.gjcity.org). Electronic copies may be obtained on a CD format at the Department of Public Works and Planning at City Hall.
- 1.10. **Definitions and Terms:** See Article I, Section 3 of the General Contract Conditions in the *Standard Contract Documents for Capital Improvements Construction*.
- 1.11. **Examination of Specifications:** Bidders shall thoroughly examine and be familiar with the project Statement of Work. The failure or omission of any Offeror to receive or examine any form, addendum, or other document shall in no way relieve any Offeror from any obligation with respect to his bid. The submission of a bid shall be taken as evidence of compliance with this section. Prior to submitting a bid, each Offeror shall, at a minimum:
  - a. Examine the *Contract Documents* thoroughly;
  - b. Visit the site to familiarize themselves with local conditions that may in any manner affect cost, progress, or performance of the Work;

- c. Become familiar with federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress or performance of the Work;
- d. Study and carefully correlate Bidder's observations with the *Contract Documents*, and;
- e. Notify the Purchasing Agent of all conflicts, errors, ambiguities or discrepancies in or among the *Contract Documents* within the designated inquiry period.

On request, the Owner will provide each Offeror access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of a Bid. It shall be the Offeror's responsibility to make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (including without limitation, surface, subsurface and underground utilities) at or contiguous to the site or otherwise which may affect cost, progress or performance of the work and which the Offeror deems necessary to determine its Bid for performing the work in accordance with the time, price and other terms and conditions of the *Contract Documents*. Location of any excavation or boring made by Offeror shall be subject to prior approval of Owner and applicable agencies. Offeror shall fill all holes, restore all pavements to match the existing structural section and shall clean up and restore the site to its former condition upon completion of such exploration. The Owner reserves the right to require the Offeror to execute an access agreement with the Owner prior to accessing the site.

The lands upon which the Work is to be performed, rights of way, and access thereto, and other lands designated for use by Contractor in performing the Work, are identified on the Drawings.

Information and data reflected in the *Contract Documents* with respect to underground utilities at or contiguous to the site are based upon information and data furnished to the Owner and the Engineer by the owners of such underground utilities or others, and the Owner does not assume responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the *Contract Documents*.

By submission of a Bid, the Offeror shall be conclusively presumed to represent that the Offeror has complied with every requirement of these Instructions to Bidders, that the *Contract Documents* are not ambiguous and are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

- 1.12. Questions Regarding Statement of Work:** Any information relative to interpretation of Scope of Work or specifications shall be requested of the Purchasing Representative, in writing, in ample time, prior to the inquiry deadline.
- 1.13. Addenda & Interpretations:** If it becomes necessary to revise any part of this solicitation, a written addendum will be posted electronically on the City's website at

<http://www.gjcity.org/501/Purchasing-Bids>. The Owner is not bound by any oral representations, clarifications, or changes made in the written specifications by Owner, unless such clarification or change is provided in written addendum form from the City Purchasing Representative.

- 1.14. Taxes:** The Owner is exempt from State retail and Federal tax. The bid price must be net, exclusive of taxes.
- 1.15. Sales and Use Taxes:** The Contractor and all Subcontractors are required to obtain exemption certificates from the Colorado Department of Revenue for sales and use taxes in accordance with the provisions of the General Contract Conditions. Bids shall reflect this method of accounting for sales and use taxes on materials, fixtures and equipment.
- 1.16. Offers Binding 60 Days:** Unless additional time is required by the Owner, or otherwise specified, all formal offers submitted shall be binding for sixty (60) calendar days following opening date, unless the Bidder, upon request of the Purchasing Representative, agrees to an extension.
- 1.17. Exceptions and Substitutions:** Bidders taking exception to the specifications and/or scope of work shall do so at their own risk. The Owner reserves the right to accept or reject any or all substitutions or alternatives. When offering substitutions and/or alternatives, Bidder must state these exceptions in the section pertaining to that area. Exception/substitution, if accepted, must meet or exceed the stated intent and/or specifications and/or scope of work. The absence of such a list shall indicate that the Bidder has not taken exceptions, and if awarded a contract, shall hold the Bidder responsible to perform in strict accordance with the specifications and/or scope of work contained herein.
- 1.18. Collusion Clause:** Each bidder by submitting a bid certifies that it is not party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any and all bids shall be rejected if there is evidence or reason for believing that collusion exists among bidders. The Owner may, or may not, accept future bids for the same services or commodities from participants in such collusion.
- 1.19. Disqualification of Bidders:** A Bid will not be accepted from, nor shall a Contract be awarded to, any person, firm, or corporation that is in arrears to the Owner, upon debt or contract, or that has defaulted, as surety or otherwise, upon any obligation to the Owner, or that is deemed irresponsible or unreliable.

Bidders may be required to submit satisfactory evidence that they are responsible, have a practical knowledge of the project bid upon and that they have the necessary financial and other resources to complete the proposed Work.

Either of the following reasons, without limitation, shall be considered sufficient to disqualify a Bidder and Bid:

- a. More than one Bid is submitted for the same Work from an individual, firm, or corporation under the same or different name; and

b. Evidence of collusion among Bidders. Any participant in such collusion shall not receive recognition as a Bidder for any future work of the Owner until such participant has been reinstated as a qualified bidder.

**1.20. Public Disclosure Record:** If the bidder has knowledge of their employee(s) or sub-contractors having an immediate family relationship with a City employee or elected official, the bidder must provide the Purchasing Representative with the name(s) of these individuals. These individuals are required to file an acceptable "Public Disclosure Record", a statement of financial interest, before conducting business with the City.

## **2. General Contract Conditions for Construction Projects**

**2.1. The Contract:** This Invitation for Bid, submitted documents, and any negotiations, when properly accepted by the City, shall constitute a contract equally binding between the City and Contractor. The contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The contract may be amended or modified with Change Orders, Field Orders, or Addendums.

**2.2. The Work:** The term Work includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

**2.3. Execution, Correlation, Intent, and Interpretations:** The Contract Documents shall be signed by the Owner (City) and Contractor. City will provide the contract. By executing the contract, the Contractor represents that he/she has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents. The Contract Documents are complementary, and what is required by any one, shall be as binding as if required by all. The intention of the documents is to include all labor, materials, equipment and other items necessary for the proper execution and completion of the scope of work as defined in the technical specifications and drawings contained herein. All drawings, specifications and copies furnished by the City are, and shall remain, City property. They are not to be used on any other project, and with the exception of one contract set for each party to the contract, are to be returned to the owner on request at the completion of the work.

**2.4. The Owner:** The Owner is the City of Grand Junction, Colorado and is referred to throughout the Contract Documents. The term Owner means the Owner or his authorized representative. The Owner shall, at all times, have access to the work wherever it is in preparation and progress. The Contractor shall provide facilities for such access. The Owner will make periodic visits to the site to familiarize himself generally with the progress and quality of work and to determine, in general, if the work is proceeding in accordance with the contract documents. Based on such observations and the Contractor's Application for Payment, the Owner will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts, as provided in the contract. The Owner will have authority to reject work which does not conform to the Contract documents. Whenever, in his reasonable

opinion, he considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he will have authority to require the Contractor to stop the work or any portion, or to require special inspection or testing of the work, whether or not such work can be then be fabricated, installed, or completed. The Owner will not be responsible for the acts or omissions of the Contractor, and sub-Contractor, or any of their agents or employees, or any other persons performing any of the work.

- 2.5. Contractor:** The Contractor is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents. The term Contractor means the Contractor or his authorized representative. The Contractor shall carefully study and compare the General Contract Conditions of the Contract, Specification and Drawings, Scope of Work, Addenda and Modifications and shall at once report to the Owner any error, inconsistency or omission he may discover. Contractor shall not be liable to the Owner for any damage resulting from such errors, inconsistencies or omissions. The Contractor shall not commence work without clarifying Drawings, Specifications, or Interpretations.
- 2.6. Sub-Contractors:** A sub-contractor is a person or organization who has a direct contract with the Contractor to perform any of the work at the site. The term sub-contractor is referred to throughout the contract documents and means a sub-contractor or his authorized representative.
- 2.7. Award of Sub-Contractors & Other Contracts for Portions of the Work:** Contractor shall submit with their bid response to the Owner, in writing for acceptance, a list of the names of the sub-contractors or other persons or organizations proposed for such portions of the work as may be designated in the proposal requirements, or, if none is so designated, the names of the sub-contractors proposed for the principal portions of the work. Prior to the award of the contract, the Owner shall notify the successful Contractor in writing if, after due investigation, has reasonable objection to any person or organization on such list. If, prior to the award of the contract, the Owner has a reasonable and substantial objection to any person or organization on such list, and refuses in writing to accept such person or organization, the successful Contractor may, prior to the award, withdraw their proposal without forfeiture of proposal security. If the successful Contractor submits an acceptable substitute with an increase in the proposed price to cover the difference in cost occasioned by the substitution, the Owner may, at their discretion, accept the increased proposal or may disqualify the Contractor. If, after the award, the Owner refuses to accept any person or organization on such list, the Contractor shall submit an acceptable substitute and the contract sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. However, no increase in the contract sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting a name with respect thereto prior to the award.
- 2.8. Quantities of Work and Unit Price:** Materials or quantities stated as unit price items in the Bid are supplied only to give an indication of the general scope of the Work, and are as such, estimates only. The Owner does not expressly or by implication agree that the actual amount of Work or material will correspond therewith, and reserves the right after award to increase or decrease the quantity of any unit item of the Work

without a change in the unit price except as set forth in Article VIII, Section 70 of the *General Contract Conditions*. The City also reserves the right to make changes in the Work (including the right to delete any bid item in its entirety or add additional bid items) as set forth in Article VIII, Sections 69 through 71 of the *General Contract Conditions*.

- 2.9. Substitutions:** The materials, products and equipment described in the *Solicitation Documents* shall be regarded as establishing a standard of required performance, function, dimension, appearance, or quality to be met by any proposed substitution. No substitution will be considered prior to receipt of Bids unless the Offeror submits a written request for approval to the City Purchasing Division at least ten (10) days prior to the date for receipt of Bids. Such requests for approval shall include the name of the material or equipment for which substitution is sought and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for evaluation, including samples if requested. The Offeror shall set forth changes in other materials, equipment, or other portions of the Work including changes of the work of other contracts, which incorporation of the proposed substitution would require to be included. The Owner's decision of approval or disapproval of a proposed substitution shall be final. If the Owner approves a proposed substitution before receipt of Bids, such approval will be set forth in an Addendum. Offerors shall not rely upon approvals made in any other manner.
- 2.10. Supervision and Construction Procedures:** The Contractor shall supervise and direct the work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the contract.
- 2.11. Warranty:** The Contractor warrants to the Owner that all materials and equipment furnished under this contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective. If required by Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If within ten (10) days after written notice to the Contractor requesting such repairs or replacement, the Contractor should neglect to make or undertake with due diligence to the same, the City may make such repairs or replacements. All indirect and direct costs of such correction or removal or replacement shall be at the Contractor's expense. The Contractor will also bear the expenses of making good all work of others destroyed or damaged by the correction, removal or replacement of his defective work.
- 2.12. Permits, Fees, & Notices:** The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work. If the Contractor observes that any of the Contract Documents are at variance in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be adjusted by approximate modification. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility and shall bear all costs attributable.

- 2.13. Responsibility for Those Performing the Work:** The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all sub-contractors, their agents and employees, and all other persons performing any of the work under a contract with the Contractor.
- 2.14. Use of the Site:** The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the site with any materials or equipment.
- 2.15. Cleanup:** The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of work he shall remove all his waste materials and rubbish from and about the project, as well as all his tools, construction equipment, machinery and surplus materials.
- 2.16. Insurance:** The Contractor shall secure and maintain such insurance policies as will provide the coverage and contain other provisions specified in the General Contract Conditions, or as modified in the Special Contract Conditions.

The Contractor shall file a copy of the policies or Certificates of Insurance acceptable to the City with the Engineer within ten (10) Calendar Days after issuance of the Notice of Award. These Certificates of Insurance shall contain a provision that coverage afforded under the policies shall not be canceled unless at least thirty (30) Calendar Days prior written notice has been given to the City.

- 2.17. Indemnification:** The Contractor shall defend, indemnify and save harmless the Owner, and all its officers, employees, insurers, and self-insurance pool, from and against all liability, suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Contractor, or of any Contractor's agent, employee, sub-contractor or supplier in the execution of, or performance under, any contract which may result from proposal award. Contractor shall pay any judgment with cost which may be obtained against the Owner growing out of such injury or damages.
- 2.18. Miscellaneous Conditions: Material Availability:** Contractors must accept responsibility for verification of material availability, production schedules, and other pertinent data prior to submission of bid. It is the responsibility of the bidder to notify the Owner immediately if materials specified are discontinued, replaced, or not available for an extended period of time.
- 2.19. OSHA Standards:** All bidders agree and warrant that services performed in response to this invitation shall conform to the standards declared by the US Department of Labor under the Occupational Safety and Health Act of 1970 (OSHA). In the event the services do not conform to OSHA standards, the Owner may require the services to be redone at no additional expense to the Owner.
- 2.20. Time:** Time is of the essence with respect to the time of completion of the Project and any other milestones or deadline which are part of the Contract. It will be necessary for each Bidder to satisfy the City of its ability to complete the Work within the Contract

Time set forth in the Contract Documents. The Contract Time is the period of time allotted in the Contract Documents for completion of the work. The date of commencement of the work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Contract or such other date as may be established therein, or as established as entered on the Bid Form. The Date of Final Completion of the work is the date certified by the Owner when all construction, and all other work associated to include, but not be limited to: testing, QA/QC, receipt of required reports and/or forms, grant requirements (if applicable), punch list items, clean-up, receipt of drawings and/or as-builts, etc., is fully complete, and in accordance with the Contract Documents.

- 2.21. Progress & Completion:** The Contractor shall begin work on the date of commencement as defined in the Contract and shall carry the work forward expeditiously with adequate forces and shall complete it within the contract time.
- 2.22. Payment & Completion:** The Contract Sum is stated in the Contract and is the total amount payable by the Owner to the Contractor for the performance of the work under the Contract Documents. Upon receipt of written notice that the work is ready for final inspection and acceptance and upon receipt of application for payment, the Owner's Project Manager will promptly make such inspection and, when he finds the work acceptable under the Contract Documents and the Contract fully performed, the Owner shall make payment in the manner provided in the Contract Documents.
- 2.23. Bid Bond:** Each Bid shall as a guaranty of good faith on the part of the Bidder be accompanied by a Bid Guaranty consisting of: a certified or cashier's check drawn on an approved national bank or trust company in the state of Colorado, and made payable without condition to the City; or a **Bid Bond** written by an approved corporate surety in favor of the City. The amount of the Bid Guaranty shall not be less than 5% of the total Bid amount. Once a Bid is accepted and a Contract is awarded, the apparent successful bidder has ten calendar days to enter into a contractor in the form prescribed and to furnish the bonds with a legally responsible and approved surety. Failure to do so will result in forfeiture of the Bid Guaranty to the City as Liquidated Damages.

Each bidder shall guaranty its total bid price for a period of sixty (60) Calendar Days from the date of the bid opening.

- 2.24. Performance & Payment Bonds:** Contractor shall furnish a Performance and a Payment Bond, each in an amount at least equal to that specified for the contract amount as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These bonds shall remain in effect for the duration of the Warranty Period (as specified in the Special Conditions). Contractor shall also furnish other bonds that may be required by the Special Conditions. All bonds shall be in the forms prescribed by the Contract Documents and be executed by such sureties as (1) are licensed to conduct business in the State of Colorado and (2) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the Authority Act. If the surety on any bond furnished by the



Contractor is declared bankrupt, or becomes insolvent, or its rights to do business in Colorado are terminated, or it ceases to meet the requirements of clauses (1) and (2) of this section, Contractor shall within five (5) days thereafter substitute another bond and surety, both of which shall be acceptable to the City.

- 2.25. Retention:** The Owner will deduct money from the partial payments in amounts considered necessary to protect the interest of the Owner and will retain this money until after completion of the entire contract. The amount to be retained from partial payments will be five (5) percent of the value of the completed work, and not greater than five (5) percent of the amount of the Contract. When the retainage has reached five (5) percent of the amount of the Contract no further retainage will be made and this amount will be retained until such time as final payment is made.
- 2.26. Liquidated Damages for Failure to Enter Into Contract:** Should the Successful Bidder fail or refuse to enter into the Contract within ten Calendar Days from the issuance of the Notice of Award, the City shall be entitled to collect the amount of such Bidder's Bid Guaranty as Liquidated Damages, not as a penalty but in consideration of the mutual release by the City and the Successful Bidder of all claims arising from the City's issuance of the Notice of Award and the Successful Bidder's failure to enter into the Contract and the costs to award the Contract to any other Bidder, to readvertise, or otherwise dispose of the Work as the City may determine best serves its interest.
- 2.27. Liquidated Damages for Failure to Meet Project Completion Schedule:** If the Contractor does not achieve Final Completion by the required date, whether by neglect, refusal or any other reason, the parties agree and stipulate that the Contractor shall pay liquidated damages to the City for each such day that final completion is late. As provided elsewhere, this provision does not apply for delays caused by the City. The date for Final Completion may be extended in writing by the Owner.

The Contractor agrees that as a part of the consideration for the City's awarding of this Contract liquidated damages in the daily amount of **\$300.00** is reasonable and necessary to pay for the actual damages resulting from such delay. The parties agree that the real costs and injury to the City for such delay include hard to quantify items such as: additional engineering, inspection and oversight by the City and its agents; additional contract administration; inability to apply the efforts of those employees to the other work of the City; perceived inefficiency of the City; citizens having to deal with the construction and the Work, rather than having the benefit of a completed Work, on time; inconvenience to the public; loss of reputation and community standing for the City during times when such things are very important and very difficult to maintain.

The Contractor must complete the Work and achieve final completion included under the Bid Schedule in the number of consecutive calendar days after the City gives is written Notice to Proceed. When the Contractor considers the entire Work ready for its intended use, Contractor shall certify in writing that the Work is fully complete. Final Completion date is the date by which the Contractor shall have fully completed all clean-up, and all items that were identified by the City in the inspection for final completion. Unless otherwise stated in the Special Conditions, for purposes of this

liquidated damages clause, the Work shall not be finished and the Contract time shall continue to accrue until the City gives its written Final Acceptance.

If the Contractor shall fail to pay said liquidated damages promptly upon demand thereof after having failed to achieve Final Completion on time, the City shall first look to any retainage or other funds from which to pay said liquidated damages; if retainage or other liquid funds are not available to pay said liquidated damages amounts, the Surety on the Contractor's Performance Bond and Payment Bond shall pay such liquidated damages. In addition, the City may withhold all, or any part of, such liquidated damages from any payment otherwise due the Contractor.

Liquidated damages as provided do not include any sums to reimburse the City for extra costs which the City may become obligated to pay on other contracts which were delayed or extended because of the Contractor's failure to complete the Work within the Contract Time. Should the City incur additional costs because of delays or extensions to other contracts resulting from the Contractor's failure of timely performance, the Contractor agrees to pay these costs that the City incurs because of the Contractor's delay, and these payments are separate from and in addition to any liquidated damages.

The Contractor agrees that the City may use its own forces or hire other parties to obtain Final Completion of the work if the time of completion has elapsed and the Contractor is not diligently pursuing completion. In addition to the Liquidated Damages provided for, the Contractor agrees to reimburse the City for all expenses thus incurred.

**2.28. Contingency/Force Account/Minor Contract Revisions:** Contingency/Force Account/Minor Contract Revisions work will be authorized by the Owner's Project Manager and is defined as minor expenses to cover miscellaneous or unforeseen expenses related to the project. The expenses are not included in the Drawings, Specifications, or Scope of Work and are necessary to accomplish the scope of this contract. Contingency/Force Account/Minor Contract Revisions Authorization will be directed by the Owner through an approved form. Contingency/Force Account/Minor Contract Revisions funds are the property of the Owner and any Contingency/Force Account/Minor Contract Revisions funds, not required for project completion, shall remain the property of the Owner. Contractor is not entitled to any Contingency/Force Account/Minor Contract Revisions funds, that are not authorized by Owner or Owner's Project Manager.

**2.29. Protection of Persons & Property:** The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor shall erect and maintain, as required by existing safeguards for safety and protection, and all reasonable precautions, including posting danger signs or other warnings against hazards promulgating safety regulations and notifying owners and users of adjacent utilities. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct by the Contractor in the execution of the work, or in consequence of the non-execution thereof by the Contractor, he shall restore, at his own expense, such property to a condition similar or equal to that existing before such

damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or it shall make good such damage or injury in an acceptable manner.

- 2.30. Changes in the Work:** The Owner, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions or other revisions, the contract sum and the contract time being adjusted accordingly. All such changes in the work shall be authorized by Change Order and shall be executed under the applicable conditions of the contract documents. A Change Order is a written order to the Contractor signed by the Owner issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or the contract time. The contract sum and the contract time may be changed only by Change Order.
- 2.31. Claims for Additional Cost or Time:** If the Contractor wishes to make a claim for an increase in the contract sum or an extension in the contract time, he shall give the Owner written notice thereof within a reasonable time after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property in which case the Contractor shall precede in accordance with the regulations on safety. No such claim shall be valid unless so made. Any change in the contract sum or contract time resulting from such claim shall be authorized by Change Order.
- 2.32. Minor Changes in the Work:** The Owner shall have authority to order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents.
- 2.33. Field Orders:** The Owner may issue written Field Orders which interpret the Contract Documents in accordance with the specifications, or which order minor changes in the work in accordance with the agreement, without change in the contract sum or time. The Contractor shall carry out such Field Orders promptly.
- 2.34. Uncovering & Correction of Work:** The Contractor shall promptly correct all work rejected by the Owner as defective or as failing to conform to the contract documents whether observed before or after substantial completion and whether or not fabricated installed or completed. The Contractor shall bear all costs of correcting such rejected work, including the cost of the Owner's additional services thereby made necessary. If within one (1) year after the date of completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the contract documents, any of the work found to be defective or not in accordance with the contract documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discover of condition. All such defective or non-conforming work under the above paragraphs shall be removed from the site where necessary and the work shall be corrected to comply with the contract documents without cost to the Owner. The Contractor shall bear the cost of making good all work of separate Contractors destroyed or damaged by such removal or correction. If the Owner prefers to accept defective or non-conforming work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an

appropriate reduction in the payment or contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor.

- 2.34. Amendment:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All amendments to the contract shall be made in writing by the Owner.
- 2.35. Assignment:** The Contractor shall not sell, assign, transfer or convey any contract resulting from this IFB, in whole or in part, without the prior written approval from the Owner.
- 2.36. Compliance with Laws:** Bids must comply with all Federal, State, County and local laws governing or covering this type of service and the fulfillment of all ADA (Americans with Disabilities Act) requirements.
- 2.37. Confidentiality:** All information disclosed by the Owner to the Contractor for the purpose of the work to be done or information that comes to the attention of the Contractor during the course of performing such work is to be kept strictly confidential.
- 2.38. Conflict of Interest:** No public official and/or City/County employee shall have interest in any contract resulting from this IFB.
- 2.39. Contract Termination:** This contract shall remain in effect until any of the following occurs: (1) contract expires; (2) completion of services; (3) acceptance of services or, (4) for convenience terminated by either party with a written *Notice of Cancellation* stating therein the reasons for such cancellation and the effective date of cancellation.
- 2.40. Employment Discrimination:** During the performance of any services per agreement with the Owner, the Contractor, by submitting a Bid, agrees to the following conditions:
  - 2.40.1.** The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin except when such condition is a legitimate occupational qualification reasonably necessary for the normal operations of the Contractor. The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - 2.40.2.** The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an Equal Opportunity Employer.
  - 2.40.3.** Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 2.41. Affirmative Action:** In executing a Contract with the City, the Contractor agrees to comply with Affirmative Action and Equal Employment Opportunity regulations presented in the General Contract Conditions.

- 2.42. Immigration Reform and Control Act of 1986 and Immigration Compliance:** The Offeror certifies that it does not and will not during the performance of the contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986 and/or the immigration compliance requirements of State of Colorado C.R.S. § 8-17.5-101, *et.seq.* (House Bill 06-1343).
- 2.43. Ethics:** The Contractor shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the Owner.
- 2.44. Failure to Deliver:** In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the Owner, after due oral or written notice, may procure the services from other sources and hold the Contractor responsible for any costs resulting in additional purchase and administrative services. This remedy shall be in addition to any other remedies that the Owner may have.
- 2.45. Failure to Enforce:** Failure by the Owner at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Owner to enforce any provision at any time in accordance with its terms.
- 2.46. Force Majeure:** The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the Contractor, unless otherwise specified in the contract.
- 2.47. Independent Contractor:** The Contractor shall be legally considered an Independent Contractor and neither the Contractor nor its employees shall, under any circumstances, be considered servants or agents of the Owner. The Owner shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, or agents. The Owner shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security Tax or any other amounts for benefits to the Contractor. Further, the Owner shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the Owner for its employees.
- 2.48. Nonconforming Terms and Conditions:** A bid that includes terms and conditions that do not conform to the terms and conditions of this Invitation for Bid is subject to rejection as non-responsive. The Owner reserves the right to permit the Contractor to withdraw nonconforming terms and conditions from its bid prior to a determination by the Owner of non-responsiveness based on the submission of nonconforming terms and conditions.

Items for non-responsiveness may include, but not be limited to:

- a. Submission of the Bid on forms other than those supplied by the City;
- b. Alteration, interlineation, erasure, or partial detachment of any part of the forms which are supplied herein;

- c. Inclusion of unauthorized additions conditional or alternate Bids or irregularities of any kind which may tend to make the Bid incomplete, indefinite, or ambiguous as to its meaning;
- d. Failure to acknowledge receipt of any or all issued Addenda;
- e. Failure to provide a unit price or a lump sum price, as appropriate, for each pay item listed except in the case of authorized alternative pay items;
- f. Failure to list the names of Subcontractors used in the Bid preparation as may be required in the Solicitation Documents;
- g. Submission of a Bid that, in the opinion of the Owner, is unbalanced so that each item does not reasonably carry its own proportion of cost or which contains inadequate or unreasonable prices for any item;
- h. Tying of the Bid with any other bid or contract; and
- i. Failure to calculate Bid prices as described herein.

**2.49. Evaluation of Bids and Offerors:** The Owner reserves the right to:

- reject any and all Bids,
- waive any and all informalities,
- consider any prompt payment discounts offered by Bidder,
- negotiate final terms with the Successful Bidder,
- take into consideration past performance of previous awards/contracts with the Owner of any Contractor, Vendor, Firm, Supplier, or Service Provider in determining final award. and
- disregard any and all nonconforming, nonresponsive or conditional Bids.

Discrepancies between words and figures will be resolved in favor of words. Discrepancies between Unit Prices and Extended Prices will be resolved in favor of the Unit Prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. The corrected extensions and totals will be shown in the tabulation of Bids.

The Owner may consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the work as to which the identity of Subcontractors and other persons and organizations must be submitted. Operating costs, maintenance considerations performance data, and guarantees of materials and equipment may also be considered by the Owner.

The Owner will conduct such investigations as deemed necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Offeror, proposed Subcontractors and other persons and organizations to do the Work in accordance with the *Contract Documents* to the City's satisfaction within the Contract Time.

The Offeror shall furnish the Owner all information and data requested by the Owner to determine the ability of the Offeror to perform the Work. The Owner reserves the right to reject the Bid if the evidence submitted by, or investigation of such Offeror fails to satisfy the Owner that such Offeror is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

By submitting a Bid, each Offeror authorizes the Owner to perform such investigation of the Offeror as the Owner deems necessary to establish the responsibility, qualifications and financial ability of the Offeror and, by its signature thereon, authorizes the Owner to obtain reference information concerning the Offeror and releases the party providing such information and the Owner from any and all liability to the Offeror as a result of such reference information so provided.

The Owner reserves the right to reject the Bid of any Offeror who does not pass any evaluation to the Owner's satisfaction.

If the Contract is to be awarded, it will be awarded to the Offeror who, by evaluation, the Owner determines will best meet the Owner's interests.

The Owner reserves the right to accept or reject the Work contained in any of the Price Bid Schedules or alternates, either in whole or in part.

**2.50. Award of Contract:** Unless otherwise indicated, a single award will be made for all the bid items in an individual bid schedule. In the event that the Work is contained in more than one Bid Schedule, the City may award Schedules individually or in combination. In the case of two Bid Schedules which are alternative to each other, only one of such alternative Schedules will be awarded. Within forty-five (45) Calendar Days of Bid Opening, the City will issue a Notice of Award to the Successful Bidder which will be accompanied by four (4) unsigned copies of the Contract and the Performance and Payment Bond forms. Within ten (10) Calendar Days thereafter, the Successful Bidder shall sign and deliver four (4) copies of the Contract, Performance Bond, Payment Bond and Certificates of Insurance to the City. Within ten (10) Calendar Days thereafter, the City will deliver two (2) fully executed counterparts of the Contract to the Contractor. No contract shall exist between the Successful Bidder and the City and the Successful Bidder shall have no rights at law or in equity until the Contract has been duly executed by the City.

The Successful Bidder's failure to sign and submit a Contract and other documents set forth in this Paragraph within the prescribed time shall be just cause of annulment of the award, and forfeiture of the Bid Guaranty. The award of Contract may then be made to the next qualified Bidder in the same manner as previously prescribed.

**2.51. Ownership:** All plans, prints, designs, concepts, etc., shall become the property of the Owner.

**2.52. Oral Statements:** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this document and/or resulting agreement. All modifications to this request and any agreement must be made in writing by the Owner.

- 2.53. Patents/Copyrights:** The Contractor agrees to protect the Owner from any claims involving infringements of patents and/or copyrights. In no event shall the Owner be liable to the Contractor for any/all suits arising on the grounds of patent(s)/copyright(s) infringement. Patent/copyright infringement shall null and void any agreement resulting from response to this IFB.
- 2.54. Remedies:** The Contractor and Owner agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
- 2.55. Venue:** Any agreement as a result of responding to this IFB shall be deemed to have been made in, and shall be construed and interpreted in accordance with, the laws of the City of Grand Junction, Mesa County, Colorado.
- 2.56. Expenses:** Expenses incurred in preparation, submission and presentation of this IFB are the responsibility of the company and cannot be charged to the Owner.
- 2.57. Sovereign Immunity:** The Owner specifically reserves its right to sovereign immunity pursuant to Colorado State Law as a defense to any action arising in conjunction to this agreement.
- 2.58. Non-Appropriation of Funds:** The contractual obligation of the Owner under this contract is contingent upon the availability of appropriated funds from this fiscal year budget as approved by the City Council or Board of County Commissioners from this fiscal year only. State of Colorado law prohibit obligation of public funds beyond the fiscal year for which the budget was approved. Anticipated expenditures/obligations beyond the end of the current Owner's fiscal year budget shall be subject to budget approval. Any contract will be subject to and must contain a governmental non-appropriation of funds clause.
- 2.59. Cooperative Purchasing:** Purchases as a result of this solicitation are primarily for the City/County. Other governmental entities may be extended the opportunity to utilize the resultant contract award with the agreement of the successful provider and the participating agencies. All participating entities will be required to abide by the specifications, terms, conditions and pricings established in this Bid. The quantities furnished in this bid document are for only the City/County. It does not include quantities for any other jurisdiction. The City or County will be responsible only for the award for its jurisdiction. Other participating entities will place their own awards on their respective Purchase Orders through their purchasing office or use their purchasing card for purchase/payment as authorized or agreed upon between the provider and the individual entity. The City/County accepts no liability for payment of orders placed by other participating jurisdictions that choose to piggy-back on our solicitation. Orders placed by participating jurisdictions under the terms of this solicitation will indicate their specific delivery and invoicing instructions.
- 2.60. Keep Jobs in Colorado Act:** Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, Colorado Revised Statutes requiring 80% Colorado labor to be employed on public works projects. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a). If Contractor claims it is entitled to a waiver pursuant to C.R.S. §8-17-101(1), Contractor shall state that there is



insufficient Colorado labor to perform the work such that compliance with Article 17 would create an undue burden that would substantially prevent a project from proceeding to completion and shall include evidence demonstrating the insufficiency and undue burden in its response.

Unless expressly granted a waiver by the Owner pursuant to C.R.S. §8-17-101(1), Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, Colorado Revised Statutes requiring 80% Colorado labor to be employed on public works. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a).

**2.60.1.** "Public Works project" is defined as:

- (a) any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects
- (b) for which appropriate or expenditure of moneys may be reasonably expected to be \$500,000.00 or more in the aggregate for any fiscal year
- (c) except any project that receives federal moneys.

### **3. Statement of Work**

**3.1. GENERAL:** The City of Grand Junction is soliciting competitive bids from qualified and interested companies for all labor, equipment, and materials required for the **2021 Highway 50 Sewer Work**. All dimensions and scope of work should be verified by Contractors prior to submission of bids.

NOTE: The descriptions of the pay items listed in the Price Bid Schedule for this Project may not agree with those listed in the Standard Specifications. Payment for all Work performed, as required in the Contract Documents, will be in accordance with the items and units listed in the Price Bid Schedule.

The performance of the Work for this Project shall conform to the General Contract conditions presented in the City of Grand Junction's Standard Contract Documents for Capital Improvements Construction, revised July 2010, except as specifically modified or supplemented herein or on the Construction Drawings.

**3.2. PROJECT DESCRIPTION:** The project generally consists of: the replacement of 290 linear feet of existing sewer pipe and 1 manhole, and the new installation of 1,126 of new sanitary sewer pipe and 3 new manholes and connection, at both ends of the project, to the existing system.

There is no flow data available for the project area. Any bypass pumping plans will need to be reviewed by the Project Engineer prior to bypass pumping.

### 3.3. SPECIAL CONDITIONS & PROVISIONS:

#### 3.3.2 QUESTIONS REGARDING SOLICITATION PROCESS/SCOPE OF WORK:

Duane Hoff, Senior Buyer  
City of Grand Junction  
[duaneh@gjcity.org](mailto:duaneh@gjcity.org)

**3.3.3 Project Manager:** The Project Manager for the Project is Anna Purtscher, Engineering Specialist, who can be reached at (970) 244-1559. During Construction, all notices, letters, submittals, and other communications directed to the City shall be addressed and mailed or delivered to:

City of Grand Junction  
Department of Public Works and Utilities  
Attn: Anna Purtscher, Project Manager  
250 North Fifth Street  
Grand Junction, CO 81501

**3.3.4 Affirmative Action:** The Contractor is not required to submit a written Affirmative Action Program for the Project.

**3.3.5 Pricing:** Pricing shall be all inclusive to include but not be limited to: all labor, equipment, supplies, materials, freight (F.O.B. Destination – Freight Pre-paid and Allowed to each site), travel, mobilization costs, fuel, set-up and take down costs, and full-time inspection costs, and all other costs related to the successful completion of the project.

The Owner shall not pay nor be liable for any other additional costs including but not limited to: taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

**3.3.6 Freight/Shipping:** All freight/shipping shall be F.O.B. Destination – Freight Pre-Paid and Allowed to the project site(s), Grand Junction, CO.

Contractor must meet all federal, state, and local rules, regulations, and requirements for providing such services.

**3.3.7 Contract:** A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the bidder's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) the City's Purchasing Department's acceptance of the bid by "Notice of Award" or by "Purchase Order". All Exhibits and Attachments included In the IFB shall be incorporated into the contract by reference.

A. The contract expresses the complete agreement of the parties and, performance shall be governed solely by the specifications and requirements contained therein.

B. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the bidder and the City Purchasing Division or by a modified Purchase Order prior to the effective date of such

modification. The bidder expressly and explicitly understands and agrees that no other method and/or no other document, including acts and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

**3.3.8 Time of Completion:** The scheduled time of Completion for the Project is 60 Calendar Days from the starting date specified in the Notice to Proceed.

Completion is achieved when site cleanup and all punch list items (resulting from the final inspection) have been completed. Completion shall have the meaning set forth in Article I, Section 3 (Definitions and Terms) of the General Contract Conditions.

**3.3.9 Working Days and Hours:** The working days and hours shall be as stated in the General Contract Conditions or as mutually agreed upon in the preconstruction meeting with the following exception:

All work shall be performed Monday – Friday between the hours of 7:00 AM to 5:00 PM.

**3.3.10 Licenses and Permits:** Contractor is responsible for obtaining all necessary licenses and permits required for Construction, at Contractors expense. See Section 2.12. Contractor shall supply to Owner all copies of finalized permits.

**3.3.11 Permits:** The following permits are required for the Project and will be obtained by the City at no cost to the Contractor:

- CDOT Special Use/Utility Permit: Permit needed for construction within Highway 50 Right-of-Way. It is anticipated that this permit will be obtained within 2 weeks of the submittal of Traffic Control Plans by the Contractor. Work in Highway 50 Right-of-Way cannot begin prior to obtaining the permit.

The following permits is not anticipated to be required for the Project, but, if dewatering is deemed necessary, will be obtained and paid for by the Contractor, with the costs included in the total bid price for the Project:

- Colorado Department of Public Health and Environment Dewatering Permit: (If necessary due to the presence of groundwater) For more information, contact the Colorado Dept. of Public Health and Environment: [www.cdphe.state.co.us/wq/PermitsUnit/wqcdpmt.html](http://www.cdphe.state.co.us/wq/PermitsUnit/wqcdpmt.html) Approximately 7 – 10 days is required for processing of the permit application. The Contractor should begin preparing the permit application immediately upon notice of award.

**3.3.12 City Furnished Materials:** The City will furnish the following materials for the Project:

- Door-hangers
- Variable message boards for upcoming construction locations

**3.3.13 Project Newsletters:** No newsletter will be prepared for the project.

**3.3.14 Project Sign:** Project signs, if any, will be furnished and installed by the City.

**3.3.15 Authorized Representatives of the City:** Those authorized to represent the City shall include Purchasing Agent, Engineers, and Inspectors employed by the City, only.

**3.3.16 Stockpiling Materials and Equipment:** All stockpiling/storage shall be in accordance with General Contract Condition Section 51.

**3.3.17 Traffic Control:** The Contractor shall provide and maintain traffic control in accordance with the approved Traffic Control Plan and the *Manual on Uniform Traffic Control Devices (MUTCD)*. A Traffic Control Plan shall be prepared by the Contractor and reviewed by the City two days prior to the pre-construction meeting for review and approval. The following requirements and limitations shall apply to the traffic control:

No personal driveway and/or access point to a property or business shall be left inaccessible at the end of each work day or over a weekend; and no construction equipment shall be parked in front of a driveway and/or access point during Contractor's non-working hours. When a driveway and/or access point has to be closed off due to construction activity, the Contractor shall provide advanced notification to the affected resident(s) at least two-days prior to closure and arrange an alternative access point to the property. Refer to General Contract Condition 26 – Maintenance of Access and Services.

Special conditions for traffic control:

1. All trenches shall be backfilled or protected at the end of each working day and access restored to all driveways. If trenches are left open at night, the trenches will be limited to 30 feet in length. The entire perimeter of the excavation shall be barricaded with construction equipment and/or temporary construction fence.
2. At all times during the project, the contractor must ensure access is available for the businesses and their customers, U.S. Postal Service, trash collection trucks, school buses, emergency vehicles, etc., per the General Contract Conditions.
3. The Contractor shall adhere to all traffic control requirements when working within City and CDOT right-of-way.
4. Detours shall be provided when a section of road is closed to through traffic for sewer construction. Residents, employees, property owners shall have access to their respected properties during construction.

Access to residents and/or businesses shall always be provided at all times during construction.

**3.3.18 Clean-Up:** The Contractor is responsible for cleaning up all loose materials that have been deposited or swept into gutters, and onto sidewalks and driveways as a result of sidewalk operations. The costs for all clean-up work shall be considered incidental and will not be paid for separately.

**3.3.19 Quality Control Testing:** Supplier shall perform Quality Control (QC) testing on the Asphalt. The Contractor shall provide QC throughout the Contract, with the use of their own QC Technicians or the use of a certified laboratory. In accordance with Section 401.06.3 of the City of Grand Junction Standard Specifications for Road and Bridge Construction, results of all QC tests shall be submitted to the Project Engineer and the City's Quality Assurance (QA) Technician within 4 hours of the time of sampling. Failure to do so may require that paving be suspended until all sampling results have been received, reviewed, and approved. The Contractor shall supply QC Lab personnel for night work(as required) for comparison of test data. If lab personnel is not supplied paving operations will be suspended until one is available. QC Field personnel shall remain on site during the duration of the paving operation or until in-place density are met.

The Contractor/Supplier shall perform QC testing on all concrete. The City will perform QA testing for concrete.

The Contractor, at their own discretion, may elect to forgo the soils QC field testing (in-place soils density). QA testing for these items will be performed by the City, and laboratory results for submittal purposes shall be provided by the contractor. However, if a sufficient number of failed test results are observed by the City and/or it's QA testing representatives, written notification will be provided to the contractor, and back payment to the City for failed location re-tests will be required.

**3.3.20 Schedule of Submittals:** Contractor shall deliver these submittals at least two days prior to the pre-construction meeting, unless otherwise noted:

- Traffic Control Plans
- Construction Schedule
- Hourly rate table for labor and equipment
- Gravity Sewer Pipe (SDR-35 PVC)
- Pipe Fittings – Wye, elbow, cap
- Sewer Manhole and barrel sections
- Manhole Ring and Cover (Castings MH-310-24 C.I.)
- Manhole Grade Rings (See Special Condition 3.3.37)
- Pipe Bedding Material, Type A
- Imported Trench Backfill
- Granular Stabilization Material (Type B)
- Aggregate Base Course, Class 6
- Inlet Protection
- Flow-Fill
- Base Course Gradation & Proctor Curve (Class 6)
- Hot Bituminous Pavement Mix Design(s)
- Geotextile Fabric (Non-woven)
- Fernco Coupler
- Eccentric Reducer

**3.3.21 Uranium Mill Tailings:** It is anticipated that radioactive mill tailings will not be encountered on this Project.

**3.3.22 T-Top Patching:** A 24" T-Top patch will be required for any asphalt patching.

**3.3.23 Fugitive Petroleum or Other Contamination:** It is anticipated that soil contamination from fugitive petroleum or other contaminants will not be encountered with the Project.

**3.3.24 Excess Material:** All excess materials shall be disposed in accordance with General Contract Condition Section 50. All asphalt millings shall be delivered to the City Storage Yard located adjacent to the City Cemetery at 2620 Legacy Way and become the property of the City of Grand Junction.

**3.3.25 Existing Utilities and Structures:** Utilities were not potholed during design of this project. The location of existing utilities and structures shown on the Plans is approximate with the information gathered during design. It is the responsibility of the Contractor to pothole/locate and protect all structures and utilities in accordance with General Contract Condition Section 37.

If the Contractor discovers a conflict with an existing utility (either horizontal or vertical), the Contractor shall contact the Project Engineer and the utility owner immediately to assist in resolving the conflict.

**3.3.26 Existing Property Pins and Survey Monuments:** The City of Grand Junction did not perform an exhaustive search for existing property pins when compiling survey data for this Project. Property pins and survey monuments have been shown on the construction drawings that were found in the field. The Contractor shall be responsible for locating, protecting and resetting property pins when and where necessary, including those shown on the plans, and including those not shown but found in the field during the course of the work. The cost of locating, protecting, referencing and resetting of property pins is incidental to the Construction Surveying pay item. The cost of referencing and resetting of survey monuments shall be paid for as described in Section 629 – Survey Monumentation within the July 2010 Standard Contract Documents.

**3.3.27 Interruption of Utilities and Services:** The Contractor shall notify all property owners affected by the interruption of utilities and other services caused by the Contractor's operations associated with this Project. Such notice shall be given at least 48 hours prior to the interruption. Notice shall be given for, but not limited to, the interruption of domestic water, sanitary sewer, trash pickup, mail delivery and changes in access to the property. Notice can be given via a newsletter and/or a door hanger. When an interruption will occur but was not stated in a newsletter, the Contractor shall, at a minimum, provide written notice and deliver to the resident/occupant; when the resident/occupant is not home at delivery time, the notice shall be attached to the door. Such notices shall provide contact information for the Contractor, the City Inspector and the City Project Engineer.

**3.3.28 Incidental Items:** Any item of work not specifically identified or paid for directly, but which is necessary for the satisfactory completion of any paid items of work, will be considered as incidental to those items, and will be included in the cost of those items.

**3.3.29 Work to be Performed by the City (Prior to Construction):**

- None

**3.3.30 Existing Concrete Sidewalks, Pans, Fillets, Curbs and Gutters:** The existing sidewalks, pans, fillets, curb and gutter are in good serviceable condition. In most instances the installation of new sidewalk and pavement will be adjacent to existing concrete. The Contractor will need to protect all concrete adjacent to construction. If the concrete is damaged during construction the Contractor will be responsible for its replacement at no cost to the City. The Contractor, the City Project Inspector, and/or the City Project Manager will walk and record any concrete that is deemed to be damaged before construction has started.

**3.3.31 ACI Concrete and Flatwork Finisher and Technician:** Hand finishing concrete will be permitted only when performed under the direct supervision of a craftsman holding the following certificate: ACI Concrete Flatwork Finisher and Technician (ACICFFT) or other Flatwork Finisher certification program approved by the City Engineering Manager.

**3.3.32 Confined Space Entry:** The Contractor is responsible for providing any and all confined space entry safety equipment; including, but not limited to: air testing equipment, fresh air blowers, tripods, harnesses, and SCBA equipment. The Contractor's air monitoring devices shall be calibrated and certified. The cost for all confined space entry equipment shall be incidental to the project cost, and will not be paid for separately.

**3.3.33 Construction Dewatering:** It is not anticipated that dewatering will be required for this project.

**3.3.34 Temporary Steel Plating:** If the Contractor chooses to use steel plates to protect an open trench section, the cost for supplying and securely placing the steel plates will not be paid for separately but shall be included in the work.

**3.3.35 Payment for Damage to Private Property beyond Easement Limits/ROW Limits:** Easement and Right-of-Way (ROW) lines are indicated on the Construction Plans. Any and all damage to improvements outside of easements and ROW, and/or outside the Construction Limit lines shall be repaired at the Contractor's expense. There will be no additional payment made for restoration of sod, landscaping, gravel, concrete or asphalt driveways, irrigation systems, decorative borders, fences, etc. beyond the property line or the construction easements as shown on the plan set.

**3.3.36 Sanitary Sewer Service Locations:** The location of sewer services shown on the construction drawings are based on TV inspection videos of the existing sanitary sewer main. The Contractor shall determine which services are active and which are inactive by using dye, tracing the line with a snake and locator, or smoking the service. The Contractor shall notify and obtain permission from the property owner prior to placing dye or smoke in the service. The Construction drawings show approximate locations of services within the ROW.

**3.3.37 Construction Surveying & "As-Built" Drawings:** In addition to Items I and II in the General Contract Conditions, Section 54, As-Built record information will be

provided to, and approved by City staff prior to Final Acceptance of the Project. Information to be provided must be in electronic format (e.g. AutoCAD and/or survey files) along with a PDF set of As-Built drawings. As-Built electronic files must contain information suitable for the City to maintain Utility records to the standards set forth in the new Colorado 811 One Call/Subsurface Utility Law (effective August 8, 2018) and standards as described in the American Society of Civil Engineers (ASCE) Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data (ASCE 38-02). Electronic information for As-Built records shall include, but is not limited to, verification of all horizontal and vertical changes in pipe alignments, elbows, tees, manholes, valves, control structures, service taps, service pipe (horizontal and vertical deflections to ROW line, meter pits, or clean-outs, whichever is closer), beginning and ending of slip-lined segments, tie-in or connection to existing infrastructure, etc. Distance between As-Built data points along pipe alignment is dependent on the amount of deflection used to install the pipe in the field. There must be sufficient point data to create a plan and profile of all infrastructure accurate to within eighteen inches (18") of the physical structures anywhere along the project.

**Sanitary Sewer Service Lines** – The Contractor is responsible for providing to the City survey grade accuracy for As-Built locations for all sewer wye fittings and sewer service elbows that are constructed as a part of this project. The Contractor shall provide survey coordinates in the X,Y,Z dimensions for these fittings. The Contractor shall provide this survey information in electronic format (e.g. AutoCAD and/or survey files). The coordinates for this survey data shall be surveyed in the Mesa County Local System (MCLS). Accuracy on survey equipment shall be within 0.1 feet both vertically and horizontally. The Contractor will be required by the City to provide information on equipment being used and if the Contractor will be performing the as-built surveys or if a surveying subcontractor will be performing the as-built surveys.

The cost for all surveying of the all sewer fittings shall be incidental to the project cost, and will not be paid for separately.

**3.3.38 As-Built Manhole Survey Shots:** All manhole invert as-built survey shots taken on the installed manholes and drop manholes shall be taken before the Contractor installs the manhole cone sections. This way the surveyor is able to shoot the manhole inverts with the survey rod in a vertical (plumb) position. Invert elevations on the 'shallow' sewer and the 'deep' sewer lines need to be provided to the Project Engineer.

**3.3.39 Manhole Grade Rings:** Concrete grade rings, shims and non-shrink grout shall not be used on the sewer manhole sections. Approved grade rings for this project shall be either HDPE Adjusting Rings by LadTech, Inc., or Expanded Polypropylene grade rings by Cretex Pro-Ring. Grade rings shall be installed per the manufacturer's recommendations and directions. Caulk and sealants shall be approved by the manufacturer and shall be applied per the manufacturer's recommendation. The top grade ring shall match as close as possible the cross slope of the existing roadway surface. Both manufacturers of grade rings provide grade rings that can accommodate the existing roadway cross-slope.



**3.3.40 Manhole Ring and Cover:** Manhole ring and covers for this project shall be Castings model MH-310-24 CI.

**3.3.41 References for Manhole Corrosion Protection:** None required. No Manhole Corrosion Protection will be utilized in this project.

**3.3.42 Manholes and Water Valves:** It shall be the contractors' responsibility to accurately record and adjust all manholes, valve boxes and survey monuments to final grade. In the event that a utility is paved over it shall be the contractors' responsibility to expose and adjust to final grade within 2 days. In all other cases utilities shall be raised to final grade within 7 days after completion of paving each street segment, and it shall be the contractors' responsibility to expose the affected utility during the event of an emergency.

**3.3.43 Materials:** In the event that excavation of the manholes grade rings are disturbed or removed and replaced due to damage the Contractor is instructed to follow these guidelines:

The annular area beneath the bottom of the uppermost grade ring shall either be filled with a self-consolidating material, i.e. ¾" screened rock or engineer approved equal or shall be completely filled with Quikrete's Rapid Road Repair or Engineer approved equal. No other means will be considered.

**3.3.44 Work By Others / Coordination:** None.

**3.3.45 Pipe Connection to Existing System:** Use MaxAdaptor coupling for connections to existing pipe, or approved equal.

**3.4. SCOPE OF WORK:** The project generally consists of: the replacement of 290 linear feet of existing sewer pipe and 1 manhole, and the new installation of 1,126 of new sanitary sewer pipe and 3 new manholes and connection, at both ends of the project, to the existing system.

There is no flow data available for the project area. Any bypass pumping plans will need to be reviewed by the Project Engineer prior to bypass pumping.

**3.5. Attachments: (Click Links)**

Appendix A: [Project Submittal Form](#)

Appendix B: [Project Special Provisions](#)

Appendix C: [Construction Drawings](#)

**3.6. Contractor Bid Documents:** For Contractor's convenience, the following is a list of forms/items to be submitted with the Contractor's bid response. However, should a form/item not be listed in this section, but required in the solicitation documents, it is the Contractor's responsibility to ensure all forms/items are submitted.

- **Contractor's Bid Form**

- **Price Bid Schedule**

**3.7. IFB TENTATIVE TIME SCHEDULE:**

E-Mail Bid Response Due	November 15, 2021
City Council Approval	December 1, 2021
Notice of Award & Contract execution	December 2, 2021
Bonding & Insurance Cert due	December 7, 2021
Preconstruction meeting	December 7, 2021
Work begins no later than	Upon Receipt of Notice to Proceed
Final Completion	60 Calendar Days from Notice to Proceed
Holidays:	Christmas & Christmas Eve, 12/24 & 25,2021 New Year's Eve & New Years Day, 12/31/2021 & 1/1/2022

## **4. Contractor's Bid Form**

**Bid Date:** \_\_\_\_\_

**Project:** IFB-4973-21-DH "2021 Highway 50 Sewer Work Project in Tracy's Village Subdivision"

**Bidding Company:** \_\_\_\_\_

**Name of Authorized Agent:** \_\_\_\_\_

**Email** \_\_\_\_\_

**Telephone** \_\_\_\_\_ **Address** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Instruction to Bidders, General Contract Conditions, Statement of Work, Specifications, and any and all Addenda thereto, having investigated the location of, and conditions affecting the proposed work, hereby proposes to furnish all labor, materials and supplies, and to perform all work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

Prices in the bid proposal have not knowingly been disclosed with another provider and will not be prior to award.

- Prices in this bid proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition.
- No attempt has been made nor will be to induce any other person or firm to submit a bid proposal for the purpose of restricting competition.
- The individual signing this bid proposal certifies they are a legal agent of the offeror, authorized to represent the offeror and is legally responsible for the offer with regard to supporting documentation and prices provided.
- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt No. 98-03544. The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- City of Grand Junction payment terms shall be Net 30 days.
- Prompt payment discount of \_\_\_\_\_ percent of the net dollar will be offered to the Owner if the invoice is paid within \_\_\_\_\_ days after the receipt of the invoice. The Owner reserves the right to consider any such discounts when determining the bid award that are no less than Net 10 days.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: \_\_\_\_\_.

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

*By signing below, the Undersigned agree to comply with all terms and conditions contained herein.*

**Company:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_

The undersigned Bidder proposes to subcontract the following portion of Work:

<u>Name &amp; address of Sub-Contractor</u>	<u>Description of work to be performed</u>	<u>% of Contract</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Bidder acknowledges the right of the City to reject any and all Bids submitted and to waive informalities and irregularities therein in the City's sole discretion.

By submission of the Bid, each Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization, that this Bid has been arrived at independently, without collusion, consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

### 4. Contractor's Bid Form

Bid Date: 11/15/21

Project: **IFB-4973-21-DH "2021 Highway 50 Sewer Work Project in Tracy's Village Subdivision"**

Bidding Company: FCI Constructors, Inc

Name of Authorized Agent: John Lupfer Project Manager

Email jlupfer@fciol.com

Telephone 970-434-9093 Address P.O. Box 1767

City Grand Junction State CO Zip 81502

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Instruction to Bidders, General Contract Conditions, Statement of Work, Specifications, and any and all Addenda thereto, having investigated the location of, and conditions affecting the proposed work, hereby proposes to furnish all labor, materials and supplies, and to perform all work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

Prices in the bid proposal have not knowingly been disclosed with another provider and will not be prior to award.

- Prices in this bid proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition.
- No attempt has been made nor will be to induce any other person or firm to submit a bid proposal for the purpose of restricting competition.
- The individual signing this bid proposal certifies they are a legal agent of the offeror, authorized to represent the offeror and is legally responsible for the offer with regard to supporting documentation and prices provided.
- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt No. 98-03544. The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- City of Grand Junction payment terms shall be Net 30 days.
- Prompt payment discount of N/A percent of the net dollar will be offered to the Owner if the invoice is paid within N/A days after the receipt of the invoice. The Owner reserves the right to consider any such discounts when determining the bid award that are no less than Net 10 days.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: None Received

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

By signing below, the Undersigned agree to comply with all terms and conditions contained herein.

Company: FCI Constructors, Inc

Authorized Signature: 

Title: Project Manager

The undersigned Bidder proposes to subcontract the following portion of Work:

<u>Name &amp; address of Sub-Contractor</u>	<u>Description of work to be performed</u>	<u>% of Contract</u>
Skyline Contracting - 3191 Mesa Ave Clifton CO 81504	Excavation, Utilities, Site Improvments	100%
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Bidder acknowledges the right of the City to reject any and all Bids submitted and to waive informalities and irregularities therein in the City's sole discretion.

By submission of the Bid, each Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization, that this Bid has been arrived at independently, without collusion, consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

## Bid Schedule: HWY 50 Sewer - FCI Sole Source Contract - Plan A

**CONTRACTOR: FCI Constructors Inc**

Item No.	CDOT, City Ref.	Description	Quantity	Units	Unit Price	Total Price	Rounding & contingency	<u>Section</u>	<u>Section</u>	<u>Section</u>
								<u>1: From</u>	<u>2: From</u>	<u>3: From</u>
								<u>Coupling</u>	<u>SSMH1</u>	<u>SSMH3</u>
								<u>to</u>	<u>to</u>	<u>to</u>
								<u>SSMH1</u>	<u>SSMH3</u>	<u>SSMH6</u>
1	102.8 / 108.3	End Cap / Plug	1	EA	\$ 370.22	\$ 370.22				1.
2	104.4	Encase Sanitary Sewer Pipe in Concrete per City Specification GU-04 (20' long) (if necessary) (cover pipes above/below encasement with plastic to avoid adherence)	88	LF	\$ 71.80	\$ 6,318.40			40.	48.
3	108.2	Price Difference for 8" Gravity Sewer Pipe (SDR-35 PVC) Upsized to 12" (Includes cost of connection to the existing sewer pipe and Type A Bedding and Haunching Material) (Includes Backfill of Trench with Native Materials meeting 103.16 Earth Backfill Material)	307	LF	\$ 26.03	\$ 7,991.21			307.	
4	108.2	12" Gravity Sewer Pipe (SDR-35 PVC) (Includes cost of connection to the existing sewer pipe and Type A Bedding and Haunching Material) (Includes Backfill of Trench with Imported Materials meeting CDOT Spec. 703.08) (For Pipe within CDOT ROW)	155	LF	\$ 104.33	\$ 16,171.15		155.		
5	108.2	12" Gravity Sewer Pipe (SDR-35 PVC) (Includes cost of connection to the existing sewer pipe and Type A Bedding and Haunching Material) (Includes Backfill of Trench with Native Materials meeting 103.16 Earth Backfill Material)	950	LF	\$ 54.52	\$ 51,794.00		130.		820.
6	108.2	15" Gravity Sewer Pipe (SDR-35 PVC) (Includes cost of connection to the existing sewer pipe and Type A Bedding and Haunching Material) (Includes Backfill of Trench with Native Materials meeting 103.16 Earth Backfill Material)	5	LF	\$ 240.08	\$ 1,200.40		5.		

7	108.3	15"x12" PVC Eccentric Reducer Fitting for PVC Sewer Pipe	1 EA	\$ 981.64	\$ 981.64	1.	
8	108.3	Fernco Coupling or Engineer Approved Equal (Contractor to verify existing pipe O.D ) (Includes rebar hoops/concrete collar, see Specification on Plans)	1 EA	\$ 768.48	\$ 768.48	1.	
9	108.5	Sanitary Sewer Basic Manhole (48" I.D.) (Includes connection of adjacent sewer line, forming inverts and adjusting to final grade. See City Std. Detail SS-02) (Includes Type A Bedding and Haunching Material and Backfill of Trench with Native Materials meeting 103.16 Earth Backfill Material)	4 EA	\$ 4,263.12	\$ 17,052.48	1.	3.
10	108.5	Manhole Barrel Section (D>5') (48" I.D.)	5.2 Vert. Ft.	\$ 274.86	\$ 1,426.52	1.88	3.31
11	202	Removal of Manhole (Price to include plugging existing abandoned pipes and removal and disposal of concrete sections)	4 LF	\$ 527.28	\$ 2,109.12	1.	3.
12	202	Removal of Existing Pipe (Size & type as shown on plans)	290 LF	\$ 13.24	\$ 3,839.60	290.	
13	202	Removal of Landscape Ground Cover and any underlying barrier. Stockpile per property owner's recommendation.	66 SY	\$ 5.61	\$ 372.13	46.11	20.22
14	202	Removal of Asphalt Mat (Full Depth)	14.59 SY	\$ 35.90	\$ 523.94	0.15	14.44
15	202	Asphalt Removal (Planing)(Thickness Varies)	14.04 SY	\$ 34.78	\$ 488.27	0.15	13.89
16	206	Structure Backfill (Flow-Fill) (For manholes within CDOT ROW and as needed)	40 CY	\$ 133.50	\$ 5,340.00	10.	30.
17	210	Reset Landscape Ground Cover. Contractor shall remove ground cover and Ground Cover and any underlying barrier as needed and stockpile materials. Contractor shall reset these materials and provide additional materials as needed to restore landscaping.	66 SY	\$ 8.97	\$ 595.01	46.11	20.22
18	212	Hydroseed with Native Seed Mix	46 SY	\$ 26.92	\$ 1,241.31	46.11	



19	304	Aggregate Base Course (Class 6) (6" thick) (in Linden Ave)	20.37	SY	\$	20.19	\$	411.32	0.15	20.22
20	304	Washed Rock Surface Course for Gravel Driveways. Match Existing Type. Thickness is 2" Min., and 3" Max.	20	SY	\$	15.71	\$	314.20	20.	
21	401	Hot Bituminous Pavement (Patching) (6" Thick) (Grading SX, Binder Grade PG 64-22, GYR.=75) (Three 2" Lifts) (See City Std. Detail GU-03)	20.37	SY	\$	95.36	\$	1,942.70	0.15	20.22
22	401	Hot Bituminous Pavement (Patching) (2" Thick) (Grading SX, Binder Grade PG 64-22, GYR.=75) (One 2" Lift Top Mat) (2' T-Top Patch) (See City Std. Detail GU-03)	14.04	SY	\$	95.36	\$	1,338.75	0.15	13.89
23	625	Construction Surveying (Includes As-Built Drawings)	1	Lump Sum	\$	3,085.15	\$	3,085.15	1.	
24	630	Flagging	200	HR	\$	30.85	\$	6,170.00	100.	100.
25	630	Traffic Control Plan (Complete in Place)	1	Lump Sum	\$	3,455.37	\$	3,455.37	1.	
26	Pump	Bypass Sewage Pumping (As deemed necessary by City or Contractor)	1	Lump Sum	\$	2,075.47	\$	2,075.47	1.	
27		Revised Alignment of 8" Water (Coordinate with Austin Civil Group LLC)	1	Lump Sum	\$	3,713.40	\$	3,713.40		1.
28		Revised Alignment of 8" Water (Coordinate with Austin Civil Group LLC)	1	Lump Sum	\$	1,469.66	\$	1,469.66		1.
29		Cost of Materials Already Ordered for Alternative Sewer Configuration (3 Manholes, to be delivered to City Shops or disposed of, depending on further instruction from the City)	1	Lump Sum	\$	7,426.81	\$	7,426.81	1.	
MCR		Minor Contract Revisions	---	---	---		\$	16,000.00	16,000.	
<b>Total Amount:</b>					<b>\$</b>	<b>\$</b>	<b>165,986.71</b>			

**Total Amount:**

**One hundred sixty-five thousand, nine hundred eighty six and 71/100**

**dollars**

# CNA SURETY

## Bid Bond

Bond No. Bid Bond

**CONTRACTOR:**  
(Name, legal status and address)

FCI Constructors, Inc.  
3070 I-70 B, Building A  
Grand Junction, CO 81504

**SURETY:** Western Surety Company  
(Name, legal status and principal place of business)

151 N. Franklin Street  
17th Floor  
Chicago, IL 60606

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

**OWNER:**  
(Name, legal status and address)

City of Grand Junction  
250 North 5th Street  
Grand Junction, CO 81501

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** 5% Five Percent of Amount Bid

**PROJECT:**  
(Name, location or address, and Project number, if any)  
2021 Highway 50 Sewer Work Project in Tracys Village Subdivision

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 15th day of November, 2021

  
(Witness)

  
(Witness)

FCI Constructors, Inc.  
(Principal) \_\_\_\_\_ (Seal)  
By:  \_\_\_\_\_  
(Title) President  
Western Surety Company  
(Surety) \_\_\_\_\_  
By:  \_\_\_\_\_  
(Title) Kristin L. Salazar, Attorney-in-Fact



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Kristin L. Salazar, Individually**

of, Greenwood Village, CO, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

Surety Bond No.: Bid Bond  
Principal: FCI Constructors, Inc.  
Obligee: City of Grand Junction

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 16th day of June, 2021.



WESTERN SURETY COMPANY

*Paul T. Bruffat*

Paul T. Bruffat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 16th day of June, 2021, before me personally came Paul T. Bruffat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



*M. Bent*

M. Bent, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 15th day of November, 2021.



WESTERN SURETY COMPANY

*L. Nelson*

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to [www.cnasurety.com](http://www.cnasurety.com) > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> USI Insurance Services, LLC P.O. Box 7050 Englewood, CO 80155 800 873-8500	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 800 873-8500	FAX (A/C, No):
	<b>E-MAIL ADDRESS:</b> den.contractors@usi.com	
<b>INSURED</b> FCI Constructors, Inc. PO Box 1767 Grand Junction, CO 81502	INSURER(S) AFFORDING COVERAGE	
	<b>INSURER A:</b> Arch Insurance Company	
	<b>INSURER B:</b> Continental Insurance Company	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
<b>INSURER F:</b>		<b>NAIC #</b> 11150 35289

**COVERAGES**

**CERTIFICATE NUMBER:**

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	ZAGLB9220005	10/01/2021	10/01/2022	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	ZACAT9242105	10/01/2021	10/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	X	X	ZAULP5207500 GL & Auto only	10/01/2021	10/01/2022	EACH OCCURRENCE \$3,000,000 AGGREGATE \$3,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	ZAWCI9389205	10/01/2021	10/01/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	<b>Commercial Umbrella Liability</b>	X	X	6079434568	10/01/2021	10/01/2022	\$10,000,000 Ea Occ \$10,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**Excess Liability**  
 Insurer: XL Insurance America, Inc.  
 Policy number: US00112885LI21A Effective 10/01/2021 to 10/01/2022  
 Limits: \$10,000,000 Each Occurrence \$10,000,000 Aggregate  
 (See Attached Descriptions)

**CERTIFICATE HOLDER**

**CANCELLATION**

City of Grand Junction 250 N. 5th St. Grand Junction, CO 81501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

## DESCRIPTIONS (Continued from Page 1)

**RE: 2021 HWY 50 Sewer Work Tracy's Village Subdivision SS-4973-21- DH, Hwy 50, Grand Junction, CO 81503**  
**As required by written contract or written agreement, City of Grand Junction and CDOT are included as Additional Insured as respects General Liability and Auto Liability but only as respects work performed on behalf of the named insured. The General Liability, Auto Liability and Workers Compensation policies provide a Waiver of Subrogation when required by written contract. Umbrella Liability follows form.**

**EVIDENCE OF PROPERTY INSURANCE**

DATE (MM/DD/YYYY)  
01/07/2022

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

<b>AGENCY</b> USI Insurance Services, LLC P.O. Box 7050 Englewood, CO 80155		<b>PHONE (A/C, No, Ext):</b> 800 873-8500	<b>COMPANY</b> Travelers Indemnity Company	
<b>FAX (A/C, No):</b>	<b>E-MAIL ADDRESS:</b> den.contractors@usi.com			
<b>CODE:</b>	<b>SUB CODE:</b>			
<b>AGENCY CUSTOMER ID #:</b> 1082345		<b>LOAN NUMBER</b>		<b>POLICY NUMBER</b> QT660142D8844TIL21
<b>INSURED</b> FCI Constructors, Inc. PO Box 1767 Grand Junction, CO 81502		<b>EFFECTIVE DATE</b> 10/01/21	<b>EXPIRATION DATE</b> 10/01/22	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
<b>THIS REPLACES PRIOR EVIDENCE DATED:</b>				

**PROPERTY INFORMATION**

**LOCATION/DESCRIPTION**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


COVERAGE INFORMATION	PERILS INSURED				AMOUNT OF INSURANCE	DEDUCTIBLE
	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL			
<b>Builders Risk, Special Form, Reporting Form</b>						
<b>Replacement Cost</b>						
<b>Fire Resistive construction</b>				\$75,000,000	\$10,000	
<b>Frame or Joisted Masonry construction</b>				\$5,000,000	\$10,000	
<b>Flood sublimit</b>				\$20,000,000	\$50,000	
<b>Earth Movement, sub limit</b>				\$20,000,000	\$50,000	
<b>Transit</b>				\$250,000	\$10,000	
<b>Temporary Location</b>				\$250,000	\$10,000	
<b>(See Attached Coverage Info.)</b>						

**REMARKS (Including Special Conditions)**

\*\*\*\*\* Description of Operations \*\*\*\*\*  
 RE: 2021 HWY 50 Sewer Work Tracy's Village Subdivision SS-4973-21- DH, Hwy 50, Grand Junction, CO 81503

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**ADDITIONAL INTEREST**

<b>NAME AND ADDRESS</b> City of Grand Junction 250 N. 5th St. Grand Junction, CO 81501	<input checked="" type="checkbox"/> ADDITIONAL INSURED	<input type="checkbox"/> LENDER'S LOSS PAYABLE	<input type="checkbox"/> LOSS PAYEE
	<input type="checkbox"/> MORTGAGEE		
	LOAN #		
AUTHORIZED REPRESENTATIVE 			

# COVERAGE INFORMATION (Continued from page 1.)

COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



# CNA SURETY

## Payment Bond

Bond No. 30146776

**CONTRACTOR:**

*(Name, legal status and address)*

FCI Constructors, Inc.  
3070 I-70 B, Building A  
Grand Junction, CO 81504

**SURETY: Western Surety Company**

*(Name, legal status and principal place of business)*

151 N. Franklin Street  
17th Floor  
Chicago, IL 60606

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

**OWNER:**

*(Name, legal status and address)*

City of Grand Junction  
250 North 5th Street  
Grand Junction, CO 81501

**CONSTRUCTION CONTRACT**

Date: November 2, 2021

Amount: \$165,986.71      One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100

**Description:**

*(Name and location)*

2021 Highway 50 Sewer Work Project in Tracys Village Subdivision SS4973-21-DH

**BOND**

Date: December 7, 2021

*(Not earlier than Construction Contract Date)*

Amount: \$165,986.71      One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100

Modifications to this Bond:     None                                     See Section 18

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

FCI Constructors, Inc.

Signature: \_\_\_\_\_

Name: Brian Kowen  
and Title: UP OF GJ OPS

*(Any additional signatures appear on the last page of this Payment Bond.)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Western Surety Company

Signature: \_\_\_\_\_

Name: Kristin L. Salazar  
and Title: Attorney-in-Fact



*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*

USI Holdings Corporation  
6501 S. Fiddlers Green Circle, Suite 100  
Greenwood Village, CO 80111

800-873-8500

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

**§ 2** If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

**§ 4** When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

**§ 5** The Surety's obligations to a Claimant under this Bond shall arise after the following:

**§ 5.1** Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

**§ 5.2** Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

**§ 6** If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

**§ 7** When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

**§ 7.1** Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

**§ 7.2** Pay or arrange for payment of any undisputed amounts.

**§ 7.3** The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

**§ 8** The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**§ 9** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### **§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature:

Name and Title:

Address

Signature:

Name and Title:

Address

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Kristin L. Salazar, Individually**

of, Greenwood Village, CO, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

Surety Bond No.: 30146776

Principal: FCI Constructors, Inc.

Obligee: City of Grand Junction

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 16th day of June, 2021.



WESTERN SURETY COMPANY

*Paul T. Brufat*

Paul T. Brufat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 16th day of June, 2021, before me personally came Paul T. Brufat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



*M. Bent*

M. Bent, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 7th day of December, 2021.



WESTERN SURETY COMPANY

*L. Nelson*

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to [www.cnasurety.com](http://www.cnasurety.com) > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

# CNA SURETY

## Performance Bond

Bond No. 30146776

**CONTRACTOR:**

*(Name, legal status and address)*

FCI Constructors, Inc.  
3070 I-70 B, Building A  
Grand Junction, CO 81504

**OWNER:**

*(Name, legal status and address)*

City of Grand Junction  
250 North 5th Street  
Grand Junction, CO 81501

**CONSTRUCTION CONTRACT**

Date: November 2, 2021

Amount: \$165,986.71      One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100

**Description:**

*(Name and location)*

2021 Highway 50 Sewer Work Project in Tracys Village Subdivision SS4973-21-DH

**BOND**

Date: December 7, 2021

*(Not earlier than Construction Contract Date)*

Amount: \$165,986.71      One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100

Modifications to this Bond:  None

See Section 16

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

FCI Constructors, Inc.

Signature: \_\_\_\_\_

Name: Bruno Ketur  
and Title: U.P. of GJ OPS

*(Any additional signatures appear on the last page of this Performance Bond.)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Western Surety Company

Signature: \_\_\_\_\_

Name: Kristin L. Salazar  
and Title: Attorney-in-Fact



This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

USI Holdings Corporation  
6501 S. Fiddlers Green Circle, Suite 100  
Greenwood Village, CO 80111  
800-873-8500

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.



**§ 7** If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

**§ 8** If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

**§ 9** The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

**§ 10** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 11** Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 12** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

**§ 13** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### **§ 14 Definitions**

**§ 14.1 Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**§ 14.2 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

**§ 14.3 Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

**§ 14.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 14.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 15** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 16 Modifications to this bond are as follows:**

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title:  
Address

Signature: \_\_\_\_\_  
Name and Title:  
Address

# INCREASE PENALTY RIDER

BOND AMOUNT \$165,986.71 BOND NO. 30146776

To be attached and form a part of Bond No. 30146776 dated the 7th Day of December, 2021, executed by Western Surety Company as surety, on behalf of FCI Constructors, Inc. as current principal of record, and in favor of City of Grand Junction, as Obligee for 2021 Highway 50 Sewer Work Project in Tracys Village Subdivision SS4973-21-DH, and in the amount of One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100 (\$165,986.71).

In consideration of the agreed premium charged for this bond, it is understood and agreed that Western Surety Company hereby consents that effective from the 7th Day of December, 2021, said bond shall be amended as follows:

THE BOND PENALTY SHALL BE INCREASED:

FROM: One Hundred Sixty Five Thousand Nine Hundred Eighty Six Dollars and 71/100 (\$165,986.71)

TO: Two Hundred Fifteen Thousand Six Hundred Twenty Six Dollars and 38/100 (\$215,626.38)

The INCREASE of said bond penalty shall be effective as of the 7th Day of December, 2021, and does hereby agree that the continuity of protection under said bond subject to changes in penalty shall not be impaired hereby, provided that the aggregate liability of the above mentioned bond shall not exceed the amount of liability assumed by it at the time the act and/or acts of default were committed and in no event shall such liability be cumulative.

Signed, sealed and dated this 19th Day of February, 2022

FCI Constructors, Inc.  
PRINCIPAL

BY

  
Clayton S. Marshall CFO

Western Surety Company  
SURETY

BY

  
Mary E. Hanks, ATTORNEY-IN-FACT



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Mary E. Hanks, Individually**

of, Greenwood Village, CO , its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

Surety Bond No.: 30146776  
Principal: FCI Constructors, Inc.  
Obligee: City of Grand Junction

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 16th day of June, 2021.



WESTERN SURETY COMPANY

*Paul T. Bruflat*

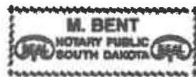
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 16th day of June, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



*M. Bent*

M. Bent, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 18th day of February, 2022.



WESTERN SURETY COMPANY

*L. Nelson*

L. Nelson, Assistant Secretary

Form F4280-7-2012

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**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

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